

EXHIBIT A

~~94CR~~ 94CR
24318
Transcript
App
to
APPELLATE
Court of Illinois
FIRST District

SUPPLEMENTAL RECORD
Circuit Court No. 94- CR 24318
Trial Judge THEMIS N. KARNEZIS
Reviewing Court No. 96-1017

THE PEOPLE OF THE STATE OF ILLINOIS

VS.

ROBERTO ALMODOVAR

FILED
APPELLATE COURT

OCT 19 1996

GILBERT S. MARCHMAN
CLERK

from
CIRCUIT COURT
of

COOK COUNTY, ILLINOIS

JUNTY DEPARTMENT, CRIMINAL DIVISION

FILED
APPELLATE COURT

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AURELIA PUCINSKI

Clerk of Court

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Deputy

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STEVEN M. RAVID
CLERK

(Rev. 4/8 /92) CCCR 0051

UNITED STATES OF AMERICA

State of Illinois)
Cook County) ss.

**Pleas, before a branch of the Circuit Court of Cook County, in said County and
State, begun and held at the Circuit Court, in said County, COOK
one thousand nine hundred and NINETY SIX AND OF THE INDEPENDENCE
OF THE UNITED STATES OF AMERICA, THE TWO HUNDRED AND TWENTIETH YEAR.**

Present: Honorable

THOMAS R. FITZGERALD

Judge of the Circuit Court of Cook County

JACK M. O'MALLEY..... State's Attorney

MICHAEL F. SHEAHAN..... Sheriff of Cook County

AURELIA PUCINSKI..... Clerk

Attest:

And afterwards, to-wit: on

SEPTEMBER 25

, 19 96

, there was ~~RECEIVED~~ ISSUED FROM

**in the Office of the Clerk of the Circuit Court of Cook County, Illinois. COUNTY DEPARTMENT
CRIMINAL DIVISION, ONE VOLUME SUPPLEMENTAL RECORD CONSISTING OF (REPORT OF PROCEEDINGS)
AN INFORMATION GENERAL NUMBER 94 CR 24318 FOLLOWING TO WIT:**

ALMODOVAR_LASSAR 9408

1 STATE OF ILLINOIS)
2)
3 COUNTY OF C O O K)

4 IN THE CIRCUIT COURT OF COOK COUNTY
5 COUNTY DEPARTMENT-CRIMINAL DIVISION

6 THE PEOPLE OF THE)
7 STATE OF ILLINOIS)
8)
9 -VS-)
10)
11 ROBERTO ALMODOVAR,)
12 WILLIAM NEGRON)

No. 94 24318

13 REPORT OF PROCEEDINGS in the above-entitled
14 cause taken before the Hon. MICHAEL B. BOLAN,
15 Judge of said court, on June 8, 1995.

16 PRESENT:

17 HON. JACK O'MALLEY,
18 State's Attorney of Cook County, by
19 MS. MICHELLE SIMMONS,
20 Assistant State's Attorney,
21 representing the People;

22 MS. MELINDA POWER and MR. SCOTT FRANKEL,
23 Private Attorneys,
24 representing the Defendant Almodovar;

MR. THOMAS GIBBONS, Private Attorney,
representing the Defendant Negron.

Victoria A. Ondriska
Official Court Reporter
#084-001457

FILED

SEP 25 1996

A
CLERK OF THE COURT
CRIMINAL DIVISION

1 DATE: 6-8-95
2 PAGES: 1-98

3 I N D E X

PAGE

4 Jacqueline Grandy, Direct examination	11
5 Jacqueline Grandy, Cross-examination	29
6 Jacqueline Grandy, Cross-examination	50
7 Det. Renaldo Guevara, Direct examination	60
8 Detective Guevara, Cross-examination	76

1

2

3

THE CLERK: William Negron and Roberto Almodovar, Pedro Nungaray.

4

5

MS. POWER: Melinda Power on behalf of Roberto Almodovar.

6

7

MR. FRANKEL: Scott Frankel also on behalf of Mr. Almodovar.

8

THE COURT: You are -- who is your lawyer?

9

MR. NUNGARAY: Larry Axlerod.

10

11

12

THE COURT: He's not here. He sent a man from his office, Mr. Mottweiller. He gave me a couple of dates. He wants to set it for a hearing on a motion.

13

Is that correct?

14

MS. WOLFSON: Yes.

15

THE COURT: You are filing a motion, too?

16

17

MR. GIBBONS: I'm filing the same motion as my co-counsel regarding the identification.

18

19

THE COURT: Which case is this on? Is this the case where --

20

MR. GIBBONS: Almodovar and Negron.

21

22

MS. POWER: Judge, this is set for a hearing today, and I believe --

23

MS. WOLFSON: The witnesses are here.

24

THE COURT: You are right.

1 MS. WOLFSON: Miss Simmons will be ready for a
2 hearing.

3 What time should we be back?

4 THE COURT: Half hour.

5 MS. POWER: There is also motion about the GPR
6 records, and I filed a memorandum in regards to that.

7 THE COURT: Okay. I'll take that up, too.

8 Wait a minute. I've got to give this young
9 man a date.

10 We'll wait here. Miss Simmons is on this.

11 (Whereupon the above-entitled
12 cause was passed and later
13 recalled, after which the
14 following proceedings were
15 had:)

16 THE COURT: 94-24318. Almodovar and Negron.
17 State, there is a motion for production of
18 documents, GPR's related to the lineup, et cetera.

19 Have you seen that?

20 MS. SIMMONS: Judge, I have. I have spoken to
21 Miss Power about that as well concerning -- I believe
22 it's a motion for the GPR's and asking for sanctions.

23 I personally had the detective bring down the
24 street file, and I found what she was looking for and

1 tendered it to her and indicated that I did not have
2 knowledge that that existed.

3 MS. POWER: That's not quite accurate. She
4 has tendered one of the GPR's to me. That is the
5 interview that Detective (inaudible) did with Jackie
6 Grandy.

7 However, other interviews done, one with
8 Kenley (phonetic) Silas, the other eyewitness in the
9 incident the night of the incident, one was done and
10 there are no GPR's on that. There is no --

11 THE COURT: Do we know if there is one?

12 MS. SIMMONS: There are not. I can definitely
13 represent to the Court with regard to Kenley Silas there
14 are no GPR's.

15 With regard to Miss Grandy, I was unsure.
16 That's why I had them bring down the entire file.

17 I found one additional GPR that the defense
18 attorneys did not have, and I tendered it to them.

19 There are no GPR's with regards to another
20 witness, what Miss Powers referred to.

21 MS. POWER: I can't even tell which police
22 officer spoke to Kenley Silas. It may help --

23 THE COURT: That is the infirmity of the
24 report. That's not a discovery violation.

1 MS. POWER: True.

2 There is also a photo display shown to Jackie
3 Grandy by Detective Guevara on December 5th, and there
4 is no GPR's either. There was no report done until the
5 13th.

6 So there are three specific incidents that I
7 raised in the motion, and what I'm being informed now
8 there was only one GPR. I find that highly unlikely the
9 night of the incident there were no notes taken of the
10 eyewitness.

11 I then also find it highly unlikely if there
12 were a photo display there would have been no notes
13 taken and nothing put in writing until more than a week
14 after the incident which is -- after the photo display,
15 which is when the report was prepared.

16 THE COURT: Well, you can ask him.

17 Have you filed a motion in this case?

18 MS. POWER: Who, me?

19 THE COURT: The only thing I see is a motion
20 to suppress identification on behalf of William Negrón.

21 MS. POWER: Yes, we filed one on May 11. I
22 have an extra copy if you'd like.

23 THE COURT: Because I haven't seen it.

24 MS. POWER: Okay.

1 MS. SIMMONS: Before we begin the motion, we
2 have a motion before the Court.

3 THE COURT: Motion to produce photo display.

4 MS. POWER: And lineup identification, it
5 should say.

6 THE COURT: It's been pencilled in.

7 I always like to look at these ahead of time
8 so I know what I'm doing. It always helps.

9 Okay. Call your first witness.

10 MS. SIMMONS: Judge, before Miss Power or
11 Mr. Gibbons calls the first witness, I have a request of
12 the Court.

13 First with regards to this motion, Judge, as
14 you can see, there's been a motion filed, I believe with
15 eight paragraphs.

16 First take Mr. Almodovar's, asking, motion to
17 suppress a photo display.

18 THE COURT: No, no. The one I have on
19 Almodovar are --

20 MS. SIMMONS: Motion to suppress the photo
21 display.

22 THE COURT: The words on mine is added, and
23 lineup identification.

24 MS. SIMMONS: I don't have that on mine,

1 Judge.

2 But what my objection would be, No. 1, in the
3 motion to suppress a photo display, because it's based
4 on suggestiveness, Miss Power is saying of the police
5 officers, of one of the eyewitnesses?

6 I would object to Paragraph 7. Paragraph 7,
7 if you notice addresses the validity of the defendant's
8 arrest. We are not, as I understand it, here to
9 litigate a motion to quash arrest, but a motion to
10 suppress a photo display.

11 If that is the case, I would object to any
12 testimony concerning this defendant's arrest. If
13 Counsel wishes to file a motion to quash arrest and
14 suppress evidence, that's fine. I ask we litigate that.

15 However, with regard to this particular
16 motion, I would object to any reference with regards to
17 this defendant's arrest in that it's irrelevant to a
18 motion to suppress a photo display.

19 MR. GIBBONS: If I may respond to that very
20 briefly.

21 The arrest -- the arrest of my client is based
22 upon the identification made in the photo display. So
23 therefore certainly, arguably that could be the fruit of
24 the poisonous tree if the photo display were suppressed.

1 THE COURT: There might be an independent
2 basis.

3 MR. GIBBONS: Conceivably, I suppose.

4 THE COURT: Sure, like a warrant.

5 MR. GIBBONS: Based on my review of the
6 reports it was based on her --

7 THE COURT: The probable cause to arrest the
8 defendant -- you're saying there is a suggestive
9 identification that thereafter led to the arrest of the
10 defendant. So you have to litigate the issue of whether
11 or not there was in fact a suggestive identification
12 procedure.

13 MR. GIBBONS: Right. That's why we are here.

14 MS. SIMMONS: I'd be objecting to litigating
15 probable cause and whether or not we have a good arrest.

16 THE COURT: I agree. We're not going to
17 litigate that portion.

18 MS. SIMMONS: I'd ask that Paragraph 7 be
19 stricken from the motion.

20 THE COURT: Well, it will stand. It's not
21 going to be considered.

22 Anything else?

23 MS. SIMMONS: Yes, Judge. I'd be objecting to
24 the relief they're asking for, which is that the lineup

1 be suppressed. I'd be objecting to that in that we have
2 two separate identifications. We have a motion entitled
3 motion to suppress the photo display, and now we have
4 added "and lineup." These are two separate
5 identifications. We have a photo array on September
6 5th. We have a lineup a week later on the 12th.

7 If we are looking to suppress the photo array
8 because of some suggestive activities with regards to
9 the photo array, I ask that we litigate that. And if
10 there is an issue with regard to the lineup, I ask that
11 we litigate that in another motion. What we're here for
12 today deals with the photo array.

13 THE COURT: The photo array display should
14 involve certain officers. I don't know if they are the
15 same officers involved in the lineup situation.

16 MS. SIMMONS: They are.

17 THE COURT: Well, they can do them in series.

18 MS. SIMMONS: Okay.

19 MS. POWER: Can we bring out the defendants?

20 THE COURT: Oh, yes.

21 MR. GIBBONS: Judge, we make a motion to
22 exclude witnesses.

23 MS. POWER: Join in the motion.

24 THE COURT: Reciprocal motion to exclude

1 witnesses, both sides, all witnesses.

2 Call your first witness.

3 MS. POWER: Jackie Grandy.

4 (Witness sworn.)

5 JACQUELINE GRANDY,

6 called as a witness on behalf of the Defendant, having

7 been first duly sworn, was examined and testified as

8 follows:

9 DIRECT EXAMINATION

10 BY

11 MS. POWER:

12 Q. Good morning. Would you please state your
13 name for the record?

14 A. Theresa Jacqueline Grandy.

15 Q. And how old are you, Miss Grandy?

16 A. Twenty-one.

17 Q. And you're employed, is that right?

18 A. Yes.

19 Q. And how far have you gone in school?

20 A. My GED.

21 Q. Okay. Now, on September 1, '94, you had
22 something terrible happen to you, is that right?

23 A. Yes, I did.

24 Q. And you were badly hurt, is that right?

1 A. Yes.

2 Q. And what happened to you is you were shot, is
3 that right?

4 A. Yes.

5 Q. And you were taken to the hospital?

6 A. Yes.

7 Q. And is that Mount Sinai hospital?

8 A. Yes, ma'am.

9 Q. Now, when you were taken to the hospital,
10 were you in a lot of pain?

11 A. Yes, I was.

12 Q. And you were very upset, is that right?

13 MS. SIMMONS: I'd object to the leading. This
14 is her witness. She's basically feeding her the answer.

15 THE COURT: Well, overruled.

16 Answer the question.

17 But don't lead in the future.

18 THE WITNESS: Yes, I was upset.

19 MS. POWER: When you got got to hospital, you
20 were -- were you bleeding?

21 A. Yes.

22 Q. When you got to the hospital, what happened
23 to you?

24 A. They took care of me. Doctors took care of

1 me.

2 Q. Were you in and out of consciousness?

3 A. No.

4 Q. Do you remember getting an IV?

5 A. Yes.

6 Q. Where were you when you got the IV?

7 MS. SIMMONS: Judge, I would object to this.

8 THE COURT: Overruled.

9 Answer the question.

10 THE WITNESS: In bed.

11 MS. POWER: Okay. Where?

12 A. In the hospital.

13 Q. In what part of the hospital?

14 A. In the emergency room.

15 Q. Okay. And when you were in the hospital you
16 were then given surgery, is that right?

17 A. Yes.

18 Q. And you were given medicine, is that right?

19 A. Yes.

20 Q. Do you remember taking Motrin?

21 A. No.

22 Q. Do you know what Motrin is?

23 A. I didn't take no medicine by my mouth.

24 Q. Did they put medicine in through the IV?

1 A. I really don't remember that.

2 Q. You don't remember?

3 A. I had medicine for the pain, yes.

4 Q. And do you remember taking Demerol?

5 A. I don't know what that is.

6 Q. They told you you were given medicine for
7 pain, is that correct?

8 A. Yes.

9 Q. That also made you drowsy?

10 A. No.

11 Q. Now, after you had the surgery you were put
12 in a private -- you weren't put in a private room, or
13 were you?

14 MS. SIMMONS: I'm sorry?

15 MS. POWER: Were you put in a private room
16 after the surgery?

17 THE WITNESS: At first, yes.

18 Q. For how long?

19 A. For about a hour.

20 Q. And then what happened?

21 A. I asked to be transferred to be with somebody
22 else.

23 Q. And why is that?

24 MS. SIMMONS: Objection, Judge.

1 THE COURT: Sustained.

2 MS. POWER: Now, when you were there in the
3 hospital, you would wake up and have pain, is that
4 correct?

5 THE WITNESS: I had pain all along, yes.

6 Q. When you had pain would you ask the nurses
7 for extra medication?

8 A. No.

9 MS. SIMMONS: Judge, I would object to this.
10 The objection is it is irrelevant.

11 THE COURT: It is relevant. Overruled.

12 MS. POWER: Do you understand my question?

13 THE WITNESS: Yes, I understand.

14 Q. Do you want it read back or --

15 A. Go ahead.

16 (Whereupon the court reporter
17 read back as requested,
18 after which the following
19 proceedings were had:)

20 MS. POWER: So that you just had the pain; you
21 didn't ask for any extra medicine?

22 THE WITNESS: No.

23 MS. SIMMONS: Objection. Asked and
24 answered.

1 THE COURT: Sustained.

2 MS. POWER: When you were in the hospital were
3 you crying at all?

4 MS. SIMMONS: Objection, Judge. If Counsel
5 wants to get to a particular point as to whether or not
6 this witness saw any photos, if there was any
7 medication, I ask that we do that.

8 If not, we're going through a bunch much
9 questions that I think are irrelevant.

10 THE COURT: No, overruled.

11 MS. POWER: Were you crying while you were in
12 the hospital?

13 THE WITNESS: No.

14 Q. You never cried during the time you were in
15 the hospital?

16 A. I cried a couple of times, but -- I was just
17 thinking about everything and flashbacks, that's all.

18 Q. You were thinking -- you got flashbacks about
19 the shooting?

20 A. Yes.

21 Q. And is that what made you cry?

22 A. Of course.

23 Q. Do you know how many times you cried during
24 the time you were in the hospital?

1 MS. SIMMONS: Objection, Judge.

2 THE COURT: Overruled.

3 THE WITNESS: No, I don't remember.

4 MS. POWER: So you were in the hospital from
5 September 1 to September 3, is that right?

6 THE WITNESS: Correct.

7 Q. So do you think you cried more than six times
8 while you were in the hospital?

9 MS. SIMMONS: Objection.

10 THE COURT: Overruled.

11 THE WITNESS: Yes, I did cry more than six
12 times.

13 MS. POWER: And your family came to visit you
14 while you were in the hospital?

15 A. Yes.

16 Q. Do you remember crying while they were there?

17 MS. SIMMONS: Objection, Judge.

18 THE COURT: Overruled.

19 THE WITNESS: Yes, I remember crying while
20 they were there.

21 MS. POWER: Do you remember talking to a nurse
22 about how you were feeling?

23 A. I just didn't tell nobody how I was feeling.

24 Q. Do you remember talking to a nurse on

1 September 2, at four p.m. in the afternoon?

2 A. No.

3 Q. Do you remember telling that nurse that you
4 were in a lot of pain and you were very scared?

5 A. No.

6 MS. SIMMONS: Objection.

7 THE COURT: Sustained. Strike the question
8 and answer.

9 MS. POWER: Do you remember telling any
10 nurses --

11 MS. SIMMONS: I'd object to the leading. This
12 is not cross-examination.

13 THE COURT: I understand. You are premature.
14 The question has to be asked.

15 MS. POWER: Do you remember talking to any
16 nurses and telling them you were afraid?

17 THE WITNESS: No.

18 Q. Now, during the time that you were in the
19 hospital do you remember a doctor telling you that you
20 needed to see a psychiatrist?

21 A. No.

22 MS. SIMMONS: Objection.

23 THE COURT: Overruled. The answer will stand.

24 MS. POWER: Did you see a psychiatrist?

1 THE WITNESS: No.

2 Q. Do you remember any of the nurses discussing
3 post-traumatic stress disorder with you?

4 A. No.

5 Q. Do you know what that is?

6 A. Yes, I know what that is.

7 Q. Do you remember any of the doctors discussing
8 that with you?

9 A. No.

10 Q. Now, while you were in the hospital, two
11 police officers came to see you, is that correct?

12 A. Yes.

13 Q. When was that?

14 A. When was what?

15 Q. When the two police officers came to see you?

16 A. When I was in the hospital.

17 Q. Do you remember what day?

18 A. No.

19 Q. Do you remember what time?

20 A. Early in the morning I believe it was.

21 Q. Had you had breakfast?

22 A. No.

23 Q. Were you awake when they came?

24 A. Yes.

1 Q. How long had you been awake?

2 A. For a couple of hours.

3 Q. And you were in your hospital room at that
4 time, is that right?

5 A. Yes.

6 Q. Were other people in the room?

7 A. An older lady.

8 Q. Was she also a patient?

9 A. Uh-huh.

10 Q. Now, when the two police officers arrived you
11 were still on the IV, is that right?

12 A. Yes.

13 Q. And you -- were you still in pain?

14 A. No.

15 Q. You had no pain at that time?

16 A. No, not when they came.

17 Q. When did the pain stop?

18 MS. SIMMONS: Objection, Judge.

19 THE COURT: Sustained.

20 MS. POWER: Did you have any pain after they
21 left?

22 THE WITNESS: No.

23 MS. SIMMONS: Objection.

24 THE COURT: Objection sustained.

1 MS. POWER: Now, when these two police
2 officers came to the hospital room, what did they say to
3 you?

4 THE WITNESS: I don't remember.

5 Q. Okay. Do you remember what you said to them?

6 A. No.

7 Q. You don't remember any of the conversation?

8 A. That I had gotten shot and the guys killed my
9 best friend. I remember that.

10 Q. You said that to them?

11 A. Yes, I said that to them.

12 Q. What did they say to you?

13 A. They didn't say nothing. They just looked at
14 me.

15 Q. Okay. And how long were the police officers
16 there?

17 A. For about five to ten minutes.

18 Q. Now, when these two police officers were
19 there, do you know their names?

20 A. No.

21 Q. Do you know what they looked like?

22 A. No.

23 Q. Do you remember anything about them?

24 A. No.

1 Q. Were they men?

2 A. Yes.

3 Q. Were they white or Latin or black?

4 A. White.

5 Q. Two white men came?

6 A. Uh-huh.

7 Q. Have you ever seen these two police officers
8 ever since?

9 A. No.

10 Q. Now, during the five or ten minutes they were
11 there, did any nurses come into the room?

12 A. No.

13 Q. Did any doctors?

14 A. No.

15 Q. Did you have any conversation with the
16 elderly patient who was in your room?

17 A. No.

18 Q. Did these two police officers tell you they
19 wanted you to look at photographs?

20 A. No.

21 Q. Did they show you photographs?

22 A. It was -- yeah, but I couldn't identify none
23 of the guys.

24 Q. Okay. How many photographs were you shown?

1 A. About six. Four to six.

2 Q. I'm sorry?

3 A. Four to six.

4 Q. Okay. And which officer showed you the
5 photographs?

6 A. I don't remember which one.

7 Q. Do you know how they showed -- were these
8 photographs single photographs?

9 A. Yes.

10 Q. And was one person in each photograph?

11 A. Yes.

12 Q. And did you look at all four to six
13 photographs?

14 A. Yes, I did.

15 Q. How long did you look at each photograph?

16 A. Just a couple of seconds.

17 Q. Okay. And was anything written on the
18 photographs?

19 A. I don't remember.

20 Q. Did you hold the photographs?

21 A. No.

22 Q. Did the officer hold the photographs?

23 A. Yes.

24 Q. Did the same officer hold every photograph?

1 A. I don't remember.

2 Q. Did you touch any of the photographs?

3 A. No, I didn't.

4 Q. You were in bed at that time, is that right?

5 A. Yes, I was.

6 Q. Were you laying down flat?

7 A. No.

8 Q. How were you in bed?

9 A. Sitting up.

10 Q. The bed was reclined up?

11 A. Uh-huh.

12 Q. And after you looked at these photographs,
13 what did the officer tell you?

14 A. He said --

15 MS. SIMMONS: Objection, Judge. At what
16 point?

17 THE COURT: Sustained.

18 MS. POWER: While you were looking -- excuse
19 me. Strike that.

20 Prior to looking at the photographs, what did
21 the officer say?

22 MS. SIMMONS: Objection. Asked and answered.

23 THE COURT: Overruled.

24 If you remember.

1 THE WITNESS: I really don't remember what he
2 was saying to me. I wasn't talking a lot. He wasn't
3 there for like an hour. He was just there for like a
4 couple of minutes.

5 MS. POWER: Did any of the officers tell you
6 -- did both officers speak to you?

7 A. Yes.

8 Q. Okay. And did any of the officers say, "Here
9 are the guys that did it"?

10 A. No, they didn't.

11 Q. Do you remember telling me that when I spoke
12 to you at the Jewel store on April 6?

13 A. No, I didn't.

14 Q. You don't remember telling me that?

15 A. I remember telling you no, they didn't say
16 anything.

17 THE COURT: Counsel, are you going to be a
18 witness in this case?

19 MS. POWER: No.

20 THE COURT: Well, you know the impropriety of
21 such a question. When you know you are going to be a
22 witness -- no, no, no. Wait a second. I'm telling you
23 something.

24 It's improper for an attorney to -- knowing to

1 be a witness -- to engage in testimony where you know
2 you are going to be a witness. If you were your own
3 prover -- that's highly improper.

4 MS. POWER: All right.

5 THE COURT: You'd be barred. Not only that,
6 you'd be sanctioned.

7 MS. POWER: All right.

8 Now, when you looked at the photographs in the
9 hospital, after looking at the four to six photographs,
10 what did you say?

11 THE WITNESS: Nothing. I didn't see him.

12 Q. I'm sorry?

13 A. I didn't say anything.

14 Q. So you didn't identify --

15 A. No, not from this group.

16 Q. Now, how long were you in the hospital?

17 MS. SIMMONS: I'm sorry. How long was she in
18 the hospital?

19 MS. POWER: Yes.

20 MS. SIMMONS: Objection, Judge.

21 THE COURT: Sustained.

22 MS. POWER: Did you ever look at any other
23 photographs?

24 THE WITNESS: No, I didn't.

1 MS. SIMMONS: Objection. At what point are we
2 speaking of?

3 THE COURT: No, no. Well, she said "ever."
4 It's a proper question. Okay? You can cross-examine
5 her.

6 Ask your question.

7 MS. POWER: Did you ever look at any other
8 photographs?

9 THE WITNESS: No.

10 MS. POWER: If I may have a moment?

11 THE COURT: Yeah.

12 MS. POWER: Do you remember speaking to an
13 investigator, Amy Myers, on April 6 at your job?

14 THE WITNESS: No.

15 Q. A blond woman who's tall who came to speak to
16 you? You may not have known her name. Do you remember
17 speaking to anyone at your job about this case?

18 A. She was with you?

19 Q. Yes.

20 A. I didn't really take a look at her face, but
21 yes, I remember a woman with you.

22 Q. Do you remember telling her that you -- that
23 the police officers told you that, "Here are the guys
24 that did it," when they showed you the photographs?

1 A. No, of course not.

2 Q. And you didn't look at photographs any other
3 time, is that right?

4 MS. SIMMONS: I'd object to the form of the
5 question. If Counsel is talking about the hospital or
6 any other time --

7 THE COURT: All right. Modify your question.

8 MS. POWER: While you were in the hospital did
9 you look at any other photographs?

10 THE WITNESS: No.

11 Q. When you got out, after you got out of the
12 hospital, did you look at any other photographs?

13 A. When Detective Guevara came to my house, yes,
14 I did.

15 Q. Going back to the hospital, were there any
16 police officers -- did the police officers take any
17 notes of what happened?

18 THE COURT: Sustained. It's irrelevant,
19 Counsel.

20 MS. POWER: I don't think it's irrelevant,
21 Judge.

22 THE COURT: To what? To the issues you are
23 litigating at this time?

24 MS. POWER: It's not irrelevant for several

1 reasons. There's been nothing in any police report
2 mentioning this happened. So we'd like to try to find
3 out who did this.

4 THE COURT: You'd like a discovery deposition.

5 MS. POWER: No, Judge.

6 THE COURT: Yes, you do.

7 MS. POWER: I think it leads up to what is
8 suggestive, and to find for the first time during this
9 police officers actually came and spoke to her in the
10 hospital and showed her photos is pretty suggestive.

11 MS. SIMMONS: Judge, Counsel is well aware
12 there is a -- Counsel has talked to this witness. She's
13 well aware there was a photo array at the hospital.

14 THE COURT: Move on to a different area. It's
15 irrelevant. She said -- you called this witness.

16 MS. POWER: Right.

17 I have no further questions at this time.

18 Mr. Gibbons does.

19 THE COURT: Don't duplicate.

20 MR. GIBBONS: Yes, Judge.

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CROSS EXAMINATION

BY

MR. GIBBONS:

Q. Ma'am, do I understand you correctly, you were shown photos, a photo spread twice, is that correct?

A. Yes.

Q. Once at the hospital and once at your home, is that what you're saying?

A. Yes.

Q. The photo spread at the hospital had -- how many photos was it?

A. I don't remember how many photos they were.

Q. Like four, five, six, ten?

A. Probably around four.

Q. Were those Polaroid pictures?

A. Yes, they were.

Q. Now, the photos that you were shown at your home by Detective Guevara, were those the same type of pictures? Were those Polaroid pictures also?

A. They were the --

Q. The same type of pictures shown at the hospital?

A. No, I don't remember that. But --

1 Q. What was the difference between the photos
2 Guevara showed you and the --

3 MS. SIMMONS: Objection.

4 THE COURT: Objection is overruled.

5 You may answer that.

6 THE WITNESS: That I remember their faces and
7 I could identify their faces.

8 MR. GIBBONS: So you are saying that the
9 photos you were shown at the hospital were of different
10 persons than the ones you were shown in your home?

11 A. I didn't pay no attention to the ones at the
12 hospital. I wasn't looking at all of them at once.

13 Q. You mean you looked at a photo spread in the
14 hospital and they asked you if you could identify
15 anybody, right?

16 A. They asked me if I could identify who I saw
17 shooting at us that night.

18 Q. What did you say?

19 A. I said no.

20 Q. You said you would be unable to identify the
21 person that did the shooting?

22 MS. SIMMONS: Objection to the form of that.

23 THE COURT: Sustained.

24 MS. GIBBONS: Well, what is it that the

1 detective said to you at the time in the hospital when
2 they showed you the photo spread?

3 MS. SIMMONS: Objection. Asked and answered.

4 THE COURT: Sustained.

5 MS. POWER: When you say that the detectives
6 asked you if you could identify anyone, what did you
7 understand that to mean?

8 MS. SIMMONS: Objection.

9 THE COURT: Sustained.

10 MR. GIBBONS: Did you understand that to mean
11 could you identify anyone in the photos, or whether you
12 could identify anyone at all that was out there that
13 night?

14 MS. SIMMONS: Objection.

15 THE COURT: Sustained.

16 I mean, before you started I said don't cover
17 the same ground as the other attorney.

18 MR. GIBBONS: I don't think I am, Judge.

19 THE COURT: I do.

20 If it's not certain, when you ask the general
21 question -- we have two viewings of photos. When you
22 asked that last question, you didn't specify. Be more
23 particular.

24 MR. GIBBONS: Well, making reference, ma'am,

1 to the photo spread in the hospital, the detectives
2 asked you if you could identify anyone who did the
3 shooting, is that what they asked you?

4 THE WITNESS: He said, "Can you identify
5 someone you saw"?

6 Q. At the time of the shooting?

7 A. At the time of the shooting.

8 Q. Meaning the persons that had done the
9 shooting?

10 A. Meaning the persons that killed my best
11 friend.

12 Q. And you told the detective that you would be
13 unable to identify anybody?

14 MS. SIMMONS: Objection.

15 THE COURT: Sustained.

16 MR. GIBBONS: What did you tell the detective?

17 THE WITNESS: I didn't say nothing.

18 Q. He asked you if you could identify anybody,
19 and you didn't say anything?

20 A. I didn't say nothing.

21 Q. When he asked you if you could identify
22 anybody and you said nothing, did he ask you any more
23 questions?

24 A. No.

1 Q. What happened next, according to you?

2 A. He left.

3 Q. Well, did he show you the pictures before he
4 left?

5 A. Yes, he showed me the pictures before he
6 left.

7 Q. Was that after you said nothing to his
8 question about whether you could identify anybody?

9 A. That was before I said nothing.

10 Q. So he asked you if you could identify anybody
11 and you didn't say anything, and he showed you the
12 pictures before you said nothing, is that your
13 testimony?

14 MS. SIMMONS: Objection, Judge.

15 THE COURT: Sustained.

16 MR. GIBBONS: After he asked you if you could
17 identify anybody, what did he do next, this detective?

18 THE WITNESS: He put the pictures away.

19 Q. Did he show them to you before he put them
20 away?

21 A. Yeah. That's the only way I was going to see
22 them.

23 Q. So you looked at them, right?

24 A. Yes, I looked at them.

1 Q. Then what happened?

2 A. I didn't say nothing.

3 Q. Did he say anything to you about the four
4 pictures that he put in front of you?

5 A. No. He just looked at me and put them away.

6 Q. He didn't ask you if --

7 THE COURT: Hold on.

8 The objection is sustained. Desist in this
9 line of questioning or I'm going to foreclose you.
10 The witness just said that. That's what I'm hearing
11 again.

12 MR. GIBBONS: Every time I ask a question, I'm
13 hearing a different answer. I'm just trying to pin her
14 down. It's a lot different than what she testified five
15 minutes ago.

16 THE COURT: You want to double examine a
17 witness? No, you can't do it.

18 MR. GIBBONS: Ma'am, let me move on.

19 To continue, let's begin in your home with the
20 photo spread. You remember that?

21 THE WITNESS: Yes.

22 Q. And when did that occur?

23 A. September the 5th.

24 Q. Okay. And at that time you had been out of

1 the hospital for how long?

2 A. Three days, I believe.

3 Q. I'm sorry?

4 A. Three days.

5 Q. Three days? You had been home for three
6 days?

7 A. Three to four days. I don't remember.

8 Q. Were you bedridden at that time?

9 A. No.

10 Q. You were up and about?

11 A. Yeah, I was relaxing.

12 Q. You were relaxing. Were you taking
13 medication at that time?

14 A. No.

15 Q. Nothing at all, is that correct?

16 A. Right.

17 Q. And what was the status of your injury at
18 this time?

19 MS. SIMMONS: Objection.

20 THE COURT: Sustained.

21 MR. GIBBONS: Were you still in pain from
22 being shot.

23 THE WITNESS: Of course I was in pain.

24 Q. And you had just gotten out of surgery I

1 understand, is that right?

2 MS. SIMMONS: Objection to "just gotten out of
3 surgery."

4 THE COURT: What is your objection?

5 MS. SIMMONS: My objection is the form of the
6 question. The witness says she is home, and he's
7 asking, "You had just gotten out of surgery."

8 THE COURT: Well, no, that is not an improper
9 form for a question. It's not improper.

10 MS. POWER: Is that right, ma'am?

11 THE WITNESS: I'm sorry. Can you repeat?

12 Q. You had just been operated on right before
13 the police came?

14 A. I never had an operation on my body.

15 Q. You were never operated on?

16 A. No.

17 Q. Were you bandaged up? Was your chest
18 bandaged up?

19 A. Yes. They left it open.

20 Q. They left it open?

21 A. Uh-huh.

22 Q. So there was a hole in your chest?

23 A. Yes, there is a hole in my chest.

24 Q. It's still there now?

1 A. It's scarred, you know. But it's a hole in
2 it.

3 Q. And when the police came and you were there
4 with this hole in your chest, were you still upset about
5 what happened?

6 MS. SIMMONS: Objection.

7 THE COURT: Overruled.

8 THE WITNESS: I wasn't so upset. I just don't
9 understand why they had to do this to us.

10 MR. GIBBONS: My question, were you still
11 upset about what happened?

12 A. That I lost my friend, yes.

13 Q. And were you crying at the time still?

14 A. No.

15 Q. You weren't crying anymore?

16 A. No.

17 Q. What happened when Detective Guevara came?

18 A. He came over to my house. He sat on the sofa
19 and he took out pictures.

20 Q. How many pictures did he take out?

21 A. Twelve.

22 Q. Twelve?

23 A. Uh-huh.

24 Q. Are you just guessing on the number or did

1 you count them out?

2 MS. SIMMONS: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: No, I'm not guessing.

5 MR. GIBBONS: How do you know there were
6 twelve?

7 A. Six short-haired guys and six long-haired
8 guys.

9 Q. You remember that now, there were six long
10 and six short-haired guys?

11 A. I remember that.

12 Q. How do you remember that?

13 MS. SIMMONS: Objection, Judge.

14 THE COURT: Sustained.

15 MR. GIBBONS: When you looked at the photos
16 did you spread them all out on the table, or how did you
17 look at them.

18 A. Yeah, he put them all out on the table.

19 Q. And the detective spread them out?

20 A. Yes.

21 Q. And what did you do? Did you divide them up
22 between short and long-haired fellows?

23 A. Yes. He divided them.

24 Q. The detective divided them up for you?

1 A. Well, I picked out the two guys that I saw
2 that night.

3 Q. Before you did that, did the detective --

4 THE COURT: Don't cut the witness off on the
5 answer.

6 MR. GIBBONS: Before you did that, the
7 detective divided up the photos into long-haired and
8 short-haired fellows?

9 THE WITNESS: Yes, he did, sir.

10 Q. Why did he do that?

11 MS. SIMMONS: Objection.

12 THE COURT: Sustained. She wouldn't know why
13 the detective did that.

14 MR. GIBBONS: Well, before he did that did you
15 ask him anything about the photos?

16 THE WITNESS: No, I didn't.

17 Q. Did you tell him that you wanted to have the
18 photos divided up to short-haired guys and long-haired
19 guys?

20 A. No, I didn't.

21 Q. Now, when the detective laid these
22 photographs out, did he say anything to you?

23 A. No, he didn't.

24 Q. Did he ask you if you could identify the

1 individuals that had been involved in this incident
2 before he put the photos down on the table?

3 A. He said, "Can you identify the people that
4 you saw that night shooting at you"?

5 Q. Okay. All right. Did he show you the
6 photographs at that time?

7 A. The photos were on any table.

8 Q. Did he tell that you the persons that had
9 done the shooting were in the photos?

10 A. No, he did not tell me.

11 Q. When he put the photographs out and divided
12 them into short-haired and long-haired fellows, did he
13 say anything to you?

14 A. No.

15 Q. When he did that and put them on your table,
16 what happened next?

17 MS. SIMMONS: Objection. The witness just
18 testified to that.

19 THE COURT: Sustained.

20 MS. GIBBONS: What did you do when he spread
21 the pictures out on on the table.

22 MS. SIMMONS: Objection. The witness just
23 testified to this.

24 THE COURT: Overruled. Calls for a different

1 answer.

2 THE WITNESS: I looked at the pictures. Right
3 away I saw their faces, picture in my head.

4 MR. GIBBONS: Right away you saw their faces.
5 Whose faces is that?

6 A. The two persons that shot at me.

7 Q. And where were they at in the pictures, in
8 the long-haired or short-haired group?

9 A. One was in the short-haired. The other was
10 in the long-haired.

11 Q. And how is it that you recognize them in
12 these pictures?

13 A. Because I know their faces.

14 Q. How do you know their faces?

15 A. Because they shot me.

16 MS. SIMMONS: Objection.

17 THE COURT: Objection is sustained. This is a
18 motion to suppress identification. Actually, to
19 suppress photo identification.

20 MR. GIBBONS: Do you know, ma'am, how these
21 detectives got these photographs to show you?

22 THE WITNESS: No, I don't.

23 Q. When you looked at these photographs you
24 wanted to find the persons in there that had committed

1 this offense, right?

2 MS. SIMMONS: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: No, I didn't want to find
5 nobody.

6 MR. GIBBONS: You didn't want to find the
7 person that shot your best friend?

8 A. Not in the photos. I didn't know they were
9 in the photos.

10 Q. You were hoping they were there?

11 MS. SIMMONS: Objection.

12 THE COURT: Sustained. It's irrelevant what a
13 persons hopes. It's not relevant to the issue before
14 the Court.

15 MR. GIBBONS: What did you say when you saw
16 the two guys in the photo spread that you believed did
17 the shooting.

18 THE WITNESS: I know they did the shooting.

19 Q. What did you say, ma'am?

20 A. "These are the guys that shot my best friend
21 and shot me."

22 Q. That's what you told the detective?

23 A. Yes, that's what I told him.

24 Q. And do you see the persons here today?

1 A. Yes. I am looking at them.

2 Q. Making reference specifically to this
3 gentleman here; was he in the photo spread?

4 MS. SIMMONS: Objection to this. We're
5 looking to suppress a photo array. We're not dealing
6 with an in-court identification today.

7 THE COURT: Sustained.

8 As well as it's beyond the scope.

9 MR. GIBBONS: Were any of the photographs you
10 were shown in the hospital in this spread shown in your
11 home?

12 MS. SIMMONS: Objection.

13 THE COURT: Sustained.

14 MR. GIBBONS: Had you ever seen any of the
15 individuals in these photos that you were shown in your
16 home before?

17 THE WITNESS: No, I never have seen them in my
18 life.

19 MS. SIMMONS: Objection.

20 THE COURT: Overruled.

21 MR. GIBBONS: None of them, is that right?

22 THE WITNESS: None of them.

23 Q. Now, ma'am, after you were shown the photos,
24 this photo spread, you were later called back down to

1 the police station to view a lineup, is that right?

2 A. Yes.

3 Q. And when did that happen?

4 A. I don't remember the date.

5 Q. How many days after you were shown the photo
6 spread, according to you?

7 A. I don't remember.

8 Q. Well, do you remember going down to the
9 police station to view a lineup?

10 A. Yes, I remember.

11 Q. And when you got there, what happened?

12 A. I was in a room waiting to be called.

13 Q. How long were you waiting?

14 A. For about fifteen minutes.

15 Q. Who were you waiting with?

16 A. My brother.

17 Q. Were there any police officers with you?

18 A. No.

19 Q. After you waited, what happened?

20 A. They asked me to go in a room.

21 Q. Who asked you to go in the room?

22 A. Detective Guevara.

23 Q. The same one that showed you the photo
24 spread?

1 A. Yes.

2 Q. Did he tell you the people you identified in
3 the photo spread were going to be in the lineup?

4 A. No.

5 Q. What did he say to you?

6 A. I just got to go to the lineup.

7 Q. He didn't tell you the point of going to the
8 lineup?

9 A. No, he didn't tell me the point.

10 Q. Did he tell what you the purpose of the
11 lineup was, ma'am?

12 A. No.

13 MS. SIMMONS: Objection to this, Judge.

14 THE COURT: Overruled.

15 MR. GIBBONS: You may answer that.

16 THE COURT: No, I'll tell the witness to
17 answer it.

18 Answer the question.

19 MS. GIBBONS: Why did you think you were going
20 into this room if nobody told you what the point was,

21 ma'am?

22 MS. SIMMONS: Objection.

23 THE COURT: Sustained.

24 MS. GIBBONS: When you went into the room,

1 what happened?

2 THE WITNESS: I was -- there was a window, a
3 mirror. It was closed. The curtains were closed. And
4 Guevara asked me to step up.

5 Q. Did he tell you what was going to happen at
6 this time?

7 A. He told me he had some guys standing there,
8 and for me to identify who had shot me that night.

9 Q. All right. What happened then?

10 A. He opened up the curtain.

11 Q. When he opened up the curtain what did you
12 see?

13 A. I saw the two guys that shot me.

14 Q. Did you recognize them from the photos?

15 A. Yes.

16 Q. Did they look the same as they did in the
17 photos or any different?

18 MS. SIMMONS: Objection.

19 THE WITNESS: No, they looked the same.

20 THE COURT: Overruled. She may answer.

21 THE WITNESS: Same persons.

22 MR. GIBBONS: Did you recognize them from the
23 time they shot you or the photos you picked out?

24 A. The time they shot me. the time they showed

1 me the pictures, and the time in the lineup.

2 Q. Do you remember where they stood in the
3 lineup?

4 A. They were sitting down.

5 Q. Sitting down. How many people were in the
6 lineup that you viewed?

7 A. Seven.

8 Q. Where were the two persons that you had
9 identified sitting?

10 A. In the courtroom?

11 THE COURT: She didn't understand the
12 question. Rephrase your question.

13 MR. GIBBONS: You said there was seven people?

14 THE WITNESS: Yes.

15 Q. Going from left to right, where were the two
16 people sitting, first position, second --

17 A. One was in the first position.

18 Q. All right. Where was the other?

19 A. Like in the third to fourth position.

20 Q. Was it the third or fourth position?

21 MS. SIMMONS: Objection.

22 THE COURT: Sustained. It's been asked and
23 answered. She said "third or fourth."

24 MR. GIBBONS: You don't remember whether it

1 was the third or fourth?

2 MS. SIMMONS: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: I don't remember.

5 MR. GIBBONS: How is it that you were able to
6 identify these two individuals, ma'am?

7 MS. SIMMONS: Objection.

8 THE COURT: Sustained.

9 MR. GIBBONS: If I could have a moment, Judge?

10 THE COURT: Yeah, take your time.

11 MR. GIBBONS: Ma'am, at the time that you
12 talked to Detective Guevara in your home and he showed
13 you the pictures and you said you made an
14 identification, did Detective Guevara write anything
15 down or take any notes?

16 MS. SIMMONS: Objection.

17 THE COURT: Sustained.

18 MS. GIBBONS: What was Detective Guevara doing
19 while you were making the identification?

20 MS. SIMMONS: Objection.

21 THE COURT: Sustained. It's irrelevant.

22 MR. GIBBONS: Judge, if I may be heard on that
23 last objection. You indicated to us that we could go
24 into the issue of whether or not any notes were taken.

1 She would be -- this witness here, Judge,
2 would be in a position to testify as to that.

3 THE COURT: Sure. Okay. Ask that question.

4 MS. GIBBONS: When you made this photographic
5 identification in your home, did Detective Guevara write
6 anything down?

7 THE WITNESS: No, he didn't.

8 MR. GIBBONS: Okay. Did he mark the photos in
9 some way so he would know which ones you identified?

10 MS. SIMMONS: Objection.

11 THE COURT: Sustained. You are asking the
12 witness to speculate on a mental situation.

13 MS. GIBBONS: Did he tell you the names of the
14 persons you identified?

15 A. No, he didn't.

16 MR. GIBBONS: Nothing further.

17 THE COURT: Any cross?

18 MS. SIMMONS: Yes, Judge, briefly.

19 CROSS EXAMINATION

20 BY

21 MS. SIMMONS:

22 Q. Jackie, when you looked at some photos, you
23 were at Mount Sinai hospital, the first set of photos,
24 is that correct?

1 A. Yes.

2 Q. And that was shortly after you had been shot
3 on September 1, '94, is that correct?

4 A. Correct.

5 Q. Okay. For the record, you were shot in the
6 shoulder, is that right?

7 A. Yes.

8 Q. Okay. You were there being treated, right?

9 A. Correct.

10 Q. Now, you said that two police officers came
11 to the hospital and showed you some photographs, is that
12 right?

13 A. Yes.

14 Q. And you looked at the photographs?

15 A. Yes, I did.

16 Q. Were you able to identify anybody in the
17 first set of photos that you were shown by police
18 officers? Were you able to identify anyone that shot
19 you or your friends?

20 A. No, I wasn't.

21 Q. After you were released from the hospital on
22 September 3, you went home, is that correct?

23 A. Yes.

24 Q. And on September 5th, Detective Guevara came

1 to your house, is that right?

2 A. Yes.

3 Q. When Detective Guevara came to your house he
4 showed you another photo array, is that right?

5 A. Correct.

6 Q. At any time when Detective Guevara showed you
7 these photos did he ever say to you, "Here are the guys
8 who did it"?

9 A. No, he never said that.

10 Q. Did he ask you to look at some photographs?

11 A. He asked me to look at photographs.

12 Q. And did he tell you who was in those
13 photographs?

14 A. No.

15 Q. When he asked you to look at the photographs,
16 did you do that?

17 A. Yes.

18 Q. And you stated that you looked at six
19 photographs of people with long hair, is that correct?

20 A. Yes.

21 Q. And six photographs of people with short
22 hair, is that also correct?

23 A. Yes.

24 Q. When you looked at those photographs you were

1 able to identify two individuals, is that correct also?

2 A. Right.

3 Q. And you identified the two individuals who
4 had shot you and shot two other people you were with on
5 that night, is that correct?

6 A. Yes.

7 Q. And you told Detective Guevara that, is that
8 also correct?

9 A. Yes.

10 MS. SIMMONS: Judge, may I approach the
11 witness?

12 THE COURT: Yeah.

13 MS. SIMMONS: Judge, showing the witness what
14 has been previously marked as People's Group Exhibit 1 A
15 through 6.

16 I'm sorry.

17 1B, 1C, 1D, E and F.

18 Showing the witness People's Group Exhibit 1
19 A, B, C, D, E and F, do you recognize the six
20 photographs I have put down in front of you?

21 THE WITNESS: Yes, I recognize them.

22 Q. Are these the photographs that Detective
23 Guevara showed you at your home?

24 A. Yes, they are.

1 Q. And are these the photographs that you
2 mention were the photographs of the people with long
3 hair or short hair?

4 A. That's right. Here are the long hair.

5 Q. Now -- pardon me. When you looked at these
6 photographs at your house, were you able to pick out
7 anybody from these photographs?

8 A. Yes, I was.

9 Q. Can you please point to the person in these
10 photographs that you picked out?

11 A. (Indicating.)

12 MS. SIMMONS: May the record reflect the
13 witness has picked the photograph 1 F?

14 THE COURT: Okay.

15 MS. SIMMONS: When you picked out this
16 photograph did you tell Detective Guevara who you
17 recognized this person to be?

18 THE WITNESS: Yes, I did.

19 Q. Who did you tell Detective Guevara this
20 person was?

21 A. He was the back passenger.

22 Q. Did you tell Detective Guevara that?

23 A. Yes, I did.

24 Q. Did you then look at some more photographs?

1 A. Yes.

2 THE COURT: What is this --

3 MS. SIMMONS: Judge, this will be --

4 THE COURT: Make it 2 A through whatever.

5 MS. SIMMONS: 2 A through F.

6 Ask you to take a look at this set of
7 photographs, 2 A through F.

8 When you looked at these photographs at your
9 home, are these the same photographs you looked at at
10 your home?

11 THE WITNESS: Yes.

12 Q. Are these the photographs of the men with the
13 short hair?

14 A. Yes.

15 Q. For the record, all the photographs that you
16 are looking at are men, is that correct?

17 A. Correct.

18 Q. And all of them appear to be Hispanic, is
19 that correct?

20 A. Correct.

21 Q. When you looked at the second set of
22 photographs, the second set of photographs of men with
23 short hair, were you you able to pick out anybody?

24 A. Yes, I was.

1 Q. Can you please show us the person you picked
2 out?

3 A. (Indicating.)

4 MS. SIMMONS: May the record reflect the
5 witness picked out 2 C?

6 THE COURT: Okay.

7 MS. SIMMONS: Did you tell Detective Guevara
8 who the person in 2 C is?

9 THE WITNESS: Yes, I did.

10 Q. Did you tell Detective Guevara you saw this
11 person as shooting at you on the night of, the night you
12 were shot, September 1?

13 A. Yes, I did.

14 Q. At any time did Detective Guevara tell you
15 who to pick out in these photographs?

16 A. No, he didn't.

17 Q. Did he ever tell you that the people who had
18 shot you were in fact in these photographs?

19 A. No.

20 Q. When you looked at a lineup a week later on
21 September 12, 1994, you recall that, is that right?

22 A. Correct.

23 Q. And that's at Area 5, Detective Division, is
24 that right?

1 A. Correct.

2 Q. When you looked at the lineup you also picked
3 out two individuals, is that correct?

4 A. Yes.

5 Q. And those two individuals you picked out,
6 were those the two individuals who you picked out in the
7 photo array?

8 A. Correct.

9 Q. Were those the two individuals also who you
10 indicated had shot you?

11 A. Yes.

12 Q. And did you pick those two individuals out
13 based upon you having seen these individuals shoot at
14 you?

15 A. Yes.

16 MS. SIMMONS: Judge, if I could have one
17 moment?

18 THE COURT: Okay.

19 MS. SIMMONS: Miss Grandy, with regards to the
20 two people who you picked out in the photo array as well
21 as the lineup, do you see them in court today?

22 THE WITNESS: Yes, I do.

23 Q. Now, first with regards to the person who you
24 -- well, first, can you tell us, do you see both of the

1 individuals in court today?

2 A. Yes, I do.

3 Q. Can you point to them and please identify
4 something they're wearing?

5 A. This one, the long hair. He's wearing
6 glasses.

7 Q. Where is he sitting?

8 A. Right there on the left.

9 MS. SIMMONS: May the record reflect the
10 in-court identification of the defendant Roberto
11 Almodovar?

12 THE COURT: The record so reflects.

13 MS. SIMMONS: Do you see anybody else you see,
14 you picked out of the photo array, lineup and you saw
15 shoot at you on September 1, '94?

16 THE WITNESS: The driver with the short hair.

17 Q. Can you please point to him?

18 A. He's right in back of his lawyers.

19 Q. What is he wearing, please?

20 A. His uniform.

21 MS. SIMMONS: May the record reflect also,
22 Judge, the in-court identification of William Negron?

23 These two individuals, did you pick both of
24 them out of the photo array?

1 A. Yes.

2 Q. And both out of the lineup as well?

3 A. Yes.

4 MS. SIMMONS: Judge, can I have one quick
5 moment? I believe I'm finished.

6 Just briefly, Judge.

7 Jackie, these two individuals who shot at you
8 on the night of September 1, '94, you had never seen
9 these individuals before that night, is that correct?

10 THE WITNESS: Never in my life.

11 Q. And after that night you saw them, is that
12 correct?

13 A. After they shot at us?

14 Q. Right. Did you see them in the photo array?

15 A. Yes.

16 Q. Did you also see them in the lineup?

17 A. Yes.

18 Q. All right.

19 Now, you were asked by Mr. Gibbons whether or
20 not you had ever seen these individuals before. You had
21 never seen them before this happened, is that correct?

22 A. Correct.

23 Q. And after this happened, though, you were --
24 you did see them?

1 A. Yes.

2 Q. You didn't know any of these people, did you?

3 A. No.

4 MS. SIMMONS: I have nothing further.

5 THE COURT: Re-direct examination?

6 MS. POWER: I don't have any.

7 THE COURT: Mr. Gibbons?

8 MR. GIBBONS: Just one second.

9 Nothing further, Judge.

10 THE COURT: Those are all the questions you're
11 going to be asked today. You may step off the witness
12 stand.

13 (Witness excused.)

14 THE COURT: Let's have another witness.

15 (Witness sworn.)

16 DET. RENALDO GUEVARA,
17 called as a witness on behalf of the Defendants, having
18 been first duly sworn, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 BY

22 MS. POWER:

23 Q. Would you state your name for the record?

24 A. Detective Renaldo, G-u-e-v-a-r-a, Star Number